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15 *Counsel for Defendants*

16  
17 **IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEVADA**

18 STEPHANIE SPILOTRO, as Guardian ad litem  
19 for JASON DUENAS,

Case No.: 2:19-cv-01586-RFB-BNW

20 Plaintiff,

**STIPULATION AND [PROPOSED]**  
**ORDER TO STAY CASE**

21 v.

**(FIRST REQUEST)**

22 C. R. BARD, INC., and BARD PERIPHERAL  
23 VASCULAR, INC.,

24 Defendants.

25 Plaintiff Stephanie Spilotro as Guardian ad litem for JASON DUENAS (“Plaintiff”) and  
26 Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (“Defendants” and collectively with  
27 Plaintiff, the “Parties”), pursuant to Fed. R. Civ. P. 26(c) and (d) and LR IA 6-2, respectfully  
28 request that this Court temporarily stay discovery and all pretrial deadlines until **June 30, 2021** while

1 the Parties pursue settlement. In support thereof, the Parties state as follows:

2 1. This case was part of the Multi-District Litigation proceeding *In re: Bard IVC Filters*  
3 *Product Liability Litigation*, pending before Senior Judge David Campbell of the District of  
4 Arizona.

5 2. Plaintiff alleges Mr. Duenas experienced complications following the implantation of  
6 a Bard Inferior Vena Cava (“IVC”) filter, a prescription medical device. She has asserted three strict  
7 products liability counts (manufacturing defect, information defect (failure to warn) and design  
8 defect), six negligence counts (design, manufacture, failure to recall/retrofit, failure to warn,  
9 negligent misrepresentation and negligence per se), two breach of warranty counts (express and  
10 implied), two counts sounding in fraud (fraudulent misrepresentation and fraudulent concealment),  
11 an unfair and deceptive trade practices count, and a claim for punitive damages on Mr. Duenas’  
12 behalf.

13 3. Defendants deny the Plaintiff’s allegations.

14 4. After four years, the completion of general issue discovery, and three bellwether trials,  
15 Judge Campbell ordered that certain cases, which have not settled or are not close to settling, be  
16 transferred or remanded to the appropriate jurisdictions around the country for case-specific  
17 discovery and trial. As a part of that process, he established a “track” system, wherein certain cases  
18 were placed on tracks either to finalize settlement paperwork, continue settlement negotiations, or be  
19 remanded or transferred.

20 5. This case was transferred to this Court on June 10, 2017 because at the time it was not  
21 close to settling. Recently, the Parties have begun settlement discussions and are scheduling a global  
22 mediation as to all of Plaintiff’s counsel’s IVC filter cases in June 2021. The Parties believe that a  
23 stay is necessary to conserve their resources and attention so that they may attempt to resolve this  
24 case and those of the other plaintiffs represented by Plaintiff’s counsel with cases pending before this  
25 Court.

26 6. Accordingly, the Parties request that this Court issue an order staying discovery and  
27 pretrial deadlines until **June 30, 2021** to allow the Parties time to continue their settlement  
28 discussions and attend mediation in June if still necessary. This will further facilitate settlement

1 discussions, prevent unnecessary expenditures by the Parties, and conserve judicial resources as well  
 2 as place this case on a similar “track” as the MDL cases Judge Campbell determined should continue  
 3 settlement dialogue.

4       7.       A district court has broad discretion over pretrial discovery rulings. *Crawford-El v.*  
 5 *Britton*, 523 U.S. 574, 598 (1998); *accord, Republic of Ecuador v. Hinchee*, 741 F.3d 1185, 1188-89  
 6 (11<sup>th</sup> Cir. 2013); *Thermal Design, Inc. v. Am. Soc'y of Heating, Refrigerating & Air-Conditioning*  
 7 *Engineers, Inc.*, 755 F.3d 832, 837 (7<sup>th</sup> Cir. 2014); *see also, Cook v. Kartridg Pak Co.*, 840 F.2d 602,  
 8 604 (8<sup>th</sup> Cir. 1988) (“A district court must be free to use and control pretrial procedure in furtherance  
 9 of the orderly administration of justice.”).

10       8.       Under Federal Rules of Civil Procedure 26(c) and 26(d), a court may limit the scope  
 11 of discovery or control its sequence. *Britton*, 523 U.S. at 598. Although settlement negotiations do  
 12 not automatically excuse a party from its discovery obligations, the parties can seek a stay prior to  
 13 the cutoff date. *Sofo v. Pan-American Life Ins. Co.*, 13 F.3d 239, 242 (7<sup>th</sup> Cir. 1994); *see also,*  
 14 *Wichita Falls Office Assocs. V. Banc One Corp.*, 978 F.2d 915, 918 (5<sup>th</sup> Cir. 1993) (finding that a  
 15 “trial judge’s decision to curtail discovery is granted great deference,” and noting that the discovery  
 16 had been pushed back a number of times because of pending settlement negotiations).

17       9.       Facilitating the efforts of parties to resolve their disputes weighs in favor of granting  
 18 a stay. In *Coker v. Dowd*, 2:13-cv-0994-JCM-NJK, 2013 U.S. Dist. LEXIS 201845, at \*2-3 (D. Nev.  
 19 July 8, 2013), the parties requested a 60-day stay to facilitate ongoing settlement negotiations and  
 20 permit them to mediate global settlement. The Court granted the stay, finding the parties would be  
 21 prejudiced if required to move forward with discovery at that time and a stay would potentially  
 22 prevent an unnecessary complication in the case. *Id.* at \*3. Similarly, the Parties in the present case  
 23 are engaged in ongoing comprehensive settlement negotiations with Plaintiff and the other plaintiffs  
 24 represented by Plaintiff’s counsel and plan to mediate these cases in June 2021.

25       10.      The Parties agree that the relief sought herein is necessary to handle the case in the  
 26 most economical fashion yet allow sufficient time to schedule and complete discovery if necessary,  
 27 consistent with the scheduling obligations of counsel. The relief sought in this stipulation is not  
 28 being requested for delay, but so that justice may be done.

1                   **WHEREFORE**, Plaintiff and Defendants respectfully request the Court's approval of this  
2 stipulation to stay discovery and all pretrial deadlines until June 30, 2021 to allow the Parties to  
3 conduct ongoing settlement negotiations and mediation.

4                   **IT IS SO STIPULATED.**

5                   Dated this 22<sup>nd</sup> day of February 2021.

6                   WETHERALL GROUP, LTD.

GREENBERG TRAURIG, LLP

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24                   *Counsel for Defendants*

25                   **IT IS SO ORDERED.**

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**RICHARD E. BOULWARE, II**  
28                   **United States District Court**

29                   DATED this 25th day of February, 2021.

**CERTIFICATE OF SERVICE**

I hereby certify that on **February 22, 2021**, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the CM/ECF participants registered to receive such service.

/s/ Shermielynn Irasga